

APPENDIX IV

TAB C



**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al.,

Plaintiffs,

v.

DOVER AREA SCHOOL DISTRICT and
DOVER AREA SCHOOL DISTRICT
BOARD OF DIRECTORS,

Defendants.

Case No. 04-CV-2688

Hon. Judge Jones

**DECLARATION OF
MICHAEL BAKSA**

I, Michael Baksa, make this declaration pursuant to 28 U.S.C. § 1746 and based on my personal knowledge.

1. I am an adult resident of the State of Pennsylvania, a citizen of the United States, and the Assistant Superintendent in charge of curriculum for the Dover Area School District ("DASD"). I make this declaration in support of Defendants' Motion for Summary Judgment.

2. The portion of the ninth-grade biology curriculum that is the subject of Plaintiffs' complaint was implemented for the first time on January 18, 2005. This curriculum is for the ninth-grade biology class only. No other students or classes will be presented with it.

3. DASD received a donation of 60 copies of the book *Of Pandas and People: The Central Question of Biological Origins*. All of the copies of this book were placed in the Dover High School library. The library also contains other reference books related to evolution.

4. DASD is a standards-driven district and is responsible for complying with the Pennsylvania Academic Standards issued by the Pennsylvania Department of Education. A true and accurate copy of the Pennsylvania Academic Standards for Science and Technology is attached to this declaration as Exhibit A.

5. In compliance with the Pennsylvania Academic Standards for Science and Technology, the students at DASD learn about the theory of evolution and take a standardized test in which evolution is a part.

6. On October 18, 2004, the DASD Board of Directors by a 6-3 vote updated the ninth-grade biology curriculum to include the following preliminary statement:

Students will be made aware of gaps/problems in Darwin's Theory and of other theories of evolution including, but not limited to, Intelligent Design. The Origins of Life is not taught.

7. A true and accurate copy of the DASD ninth-grade biology curriculum is attached to this declaration as Exhibit B.

8. In coordination with the science department teachers, the district solicitor, and the DASD Board of Directors, I developed the following procedural statement that was read to all students in the ninth-grade biology class as the updated curriculum was implemented in January 2005:

The Pennsylvania Academic Standards require students to learn about Darwin's Theory of Evolution and eventually take a standardized test of which evolution is a part.

Because Darwin's Theory is a theory, it continues to be tested as new evidence is discovered. The Theory is not a fact. Gaps in the Theory exist for which there is no evidence. A theory is defined as a well-tested explanation that unifies a broad range of observations.

Intelligent Design is an explanation of the origin of life that differs from Darwin's view. The reference book, *Of Pandas and People*, is available for students who might be interested in gaining an understanding of what Intelligent Design actually involves.

With respect to any theory, students are encouraged to keep an open mind. The school leaves the discussion of the Origins of Life to individual students and their families. As a Standards-driven district, class instruction focuses upon preparing students to achieve proficiency on Standards-based assessments.

9. This procedural statement was slightly modified in June 2005 to read as follows:

The Pennsylvania Academic Standards require students to learn about Darwin's Theory of Evolution and eventually to take a standardized test of which evolution is a part.

Because Darwin's Theory is a theory, it continues to be tested as new evidence is discovered. The Theory is not a fact. Gaps in the Theory exist for which there is no evidence. A theory is defined as a well-tested explanation that unifies a broad range of observations.

Intelligent Design is an explanation of the origin of life that differs from Darwin's view. The reference book, *Of Pandas and People*, is available in the library along with other resources for students who might be interested in gaining an understanding of what Intelligent Design actually involves.

With respect to any theory, students are encouraged to keep an open mind. The school leaves the discussion of the Origins of Life to individual students and their families. As a Standards-driven district, class instruction focuses upon preparing students to achieve proficiency on Standards-based assessment.

This revision reflects the fact that there are other resources regarding the topic of evolution in addition to *Of Pandas and People* available to the students in the Dover High School library.

10. Teachers in the science department researched and recommended to the DASD administration the science textbook *Biology* (Prentice Hall), authored by Kenneth R. Miller, Ph.D., Professor of Biology at Brown University, and Joseph Levine, Ph.D., for its high school biology class. DASD adopted and purchased 220 copies of this teacher- and administration-recommended book. This book is the primary textbook for the ninth-grade biology class.

11. *Biology* contains several chapters in Unit 5 that cover the theory of evolution. These include chapters 15, 16, 17, and 18. True and accurate copies of these chapters are attached to this declaration as Exhibit C.

12. The authors of *Biology* included the following statement on page 15 of their text:

A useful theory may become the dominant view among the majority of scientists, but no theory is considered absolute truth. Scientists analyze, review, and critique the strengths and weaknesses of theories. As new evidence is uncovered, a theory may be revised or replaced by a more useful explanation. Sometimes, scientists resist a new way of looking at nature, but over time new evidence determines which ideas survive and which are replaced. Thus, science is characterized by both continuity and change.

A true and accurate copy of page 15 of *Biology* is attached to this declaration as Exhibit D.

13. The preliminary statement and the procedural statement were developed to provide a balanced view and not to teach or present religious beliefs.

14. On November 19, 2004, DASD issued an official statement concerning the district's biology curriculum. This statement was reposted on December 14, 2004. A true and accurate copy of this statement is attached to this declaration as Exhibit E.

15. Pursuant to his responsibility for implementing the revised ninth-grade biology curriculum, the Superintendent for DASD, Dr. Richard Nilsen, has directed that no teacher will teach Intelligent Design, Creationism, or present his or her, or any DASD Board member's religious beliefs. Therefore, teaching Intelligent Design is not part of the ninth-grade biology curriculum and students will not be tested on this subject.

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 8th day of July, 2005, in Dover, Pennsylvania.



Michael Baksa